

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: Caroline Belt

Debtor

Bruce M. Belt

Co-Debtor

Rushmore Servicing as servicer for
U.S. Bank National Association, not in
its individual capacity but solely as
trustee for RMTP Trust, Series 2021
Cottage-TT-V

v.

Caroline Belt

Kenneth E. West - Bankruptcy Trustee
Respondents

CASE NO.: 23-11061-amc

CHAPTER 13

Judge: Ashely M. Chan

Hearing Date: August 27, 2024 at 11:00 am

Objection Deadline: August 21, 2024

**MOTION FOR RELIEF FROM THE
AUTOMATIC STAY AND CO-DEBTOR STAY**

Rushmore Servicing as servicer for U.S. Bank National Association, not in its individual capacity but solely as trustee for RMTP Trust, Series 2021 Cottage-TT-V (on behalf of itself and together with any successor and/or assign, "Movant") hereby moves this Court for an Order (i) pursuant to 11 U.S.C. § 362 (d)(1); vacating the automatic stay to permit Movant, its successors and/or assigns, to enforce its mortgage on the Debtor's premises located at 2158 Green Ridge Dr, Warrington, PA 18976; vacating the co-debtor stay in effect pursuant to 11 U.S.C. § 1301(a) and (ii) for such other and further relief as is just and proper. In support of this Motion, Movant respectfully states:

1. Movant is the holder of a Note executed by Caroline Belt and Co-Debtor Bruce M. Belt dated December 10, 2014, whereby the Debtor promised to repay \$347,310.00 plus interest to BBMC Mortgage, LLC (the “Original Lender”). To secure the repayment of the Note, Mortgage Electronic Registration Systems, Inc., as nominee for BBMC Mortgage, LLC. executed a Mortgage in favor of Caroline Belt and Co-Debtor Bruce M. Belt, encumbering the Property commonly known as 2158 Green Ridge Dr, Warrington, PA 18976, which Mortgage was recorded in the Official records of Bucks County at instrument number 2014071335 (hereinafter “Mortgage”). The Mortgage was ultimately assigned to Movant by an Assignment of Mortgage. A copy of the Note, Mortgage and Assignments of Mortgage are attached hereto as **Exhibit A**.

2. The Petition under Chapter 13 of the United States Bankruptcy Code was filed by the Debtor, Caroline Belt on April 12, 2023.

3. This Court has jurisdiction over this case and this motion pursuant to 28 U.S.C. §§ 157 and 1334.

4. Venue of this case and this motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The Debtor has failed to make current mortgage payments due under the terms of the Loan. As a result, the Loan remains post-petition due for September 1, 2023, and each subsequent payment thereafter.

6. Pursuant to 11 U.S.C. § 362(d)(1), the court shall enter an order granting a secured creditor relief from the automatic stay for cause “including the lack of adequate protection of an interest in property of such party and interest.”

7. Specifically, courts have found cause for the granting of relief from an automatic stay where the debtor has failed to make post-petition mortgage payments as they become due. In *Re Taylor*, 151 B.R. 646, 648 (Bankr. E.D.N.Y. 1993).

8. Movant will be irreparably injured by continuation of the co-debtor stay imposed under 11 U.S.C. § 1301(a) absent payments from the Debtor and/or Co-Debtor. As such, the co-debtor stay should be lifted pursuant to 11 U.S.C. § 1301(c)(3), and Movant should be permitted to proceed against the Co-Debtor.

9. Accordingly, grounds exist to vacate the stay in Debtor's case and Movant therefore requests that the co-debtor stay imposed under 11 U.S.C. § 1301(a) of the Bankruptcy Code be modified and terminated for cause to permit Movant to pursue its rights against the Co-Debtor under the Mortgage and applicable law, including without limitation, the commencement and consummation of a foreclosure action and/or eviction proceeding.

10. Movant respectfully requests reasonable attorney fees in the amount of \$1,050.00 and costs in the amount of \$199.00.

WHEREFORE, Movant respectfully requests an Order of this Court vacating the automatic stay and for such other, further and additional relief as to this Court may deem just, proper and equitable.

Dated: August 7, 2024

By: /s/ Lauren Moyer

Lauren Moyer, Esq.

FRIEDMAN VARTOLO LLP

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